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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|---------------------|------------------|
| 10/791,469 | 03/01/2004 | Mark Deem | 29028-711.201 | 2103 |
| 21971 | 7590 | 07/20/2011 | EXAMINER | |
| WILSON, SONSINI, GOODRICH & ROSATI 650 PAGE MILL ROAD PALO ALTO, CA 94304-1050 | | | ANDERSON, GREGORY A | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3773 | |
| | | | MAIL DATE | DELIVERY MODE |
| | | | 07/20/2011 | PAPER |

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/791,469 | DEEM ET AL. | |
| | Examiner | Art Unit | |
| | GREGORY ANDERSON | 3773 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 08 September 2010.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-8, 10-16, 18-24, 33-40 and 55-84 is/are pending in the application.
- 4a) Of the above claim(s) 74-84 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-8, 10-16, 18-24, 33-40 and 55-73 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ . |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date <u>09082010, 07122011</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 08 September 2010 has been entered.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-8, 10-16, 18-24, 33-40 and 55-73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Butaric et al. 6,887,268 in view of Barone 6,162,246.

Butaric et al. discloses, in at least Figs. 1-4 and Col. 9 ll. 54-56, a stent-graft device having a stent member 40 comprising self expanding or balloon-expandable material, a tubular graft member 60 coupled with the stent member, two sinusoidal leg members 11a/11b helically intertwined and a skirt graft member 30 configured to be placed in contact with the inner wall of the aortic aneurysm (Fig. 1). Butaric et al. further discloses the stent being made from nitinol or stainless steel and being self expandable (Col. 10 ll. 29-35). Butaric et al. further discloses the stent comprising diamond-shaped

members (Col. 16 ll. 35-38). Butaric et al. further discloses adhesive or welding connecting the graft tot he stent (Col. 11 ll. 35-37). Butaric et al. further discloses a supra-renal or infra-renal stent (Col. 13 ll. 15-18).

However, Butaric et al. does not disclose the two leg members being connected to a main graft member.

Barone discloses, see Fig. 10, a stent-graft device having two leg members 34 removably coupled to a main graft member 39.

It would have been obvious to one having ordinary skill in the art at the time of the rejection to modify the device of Butaric et al. with the main graft member of Barone in order to provide a graft capable of adapting to different size and shape characteristics as taught by Barone (Col. 5 ll. 8-10).

Response to Arguments

4. Applicant's arguments with respect to claims 1-8, 10-16, 18-24, 33-40 and 55-73 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory A Anderson whose telephone number is (571)270-3083. The examiner can normally be reached on Mon-Thurs 9:30am-3pm EST.

If attempts to reach the examiner by telephone are unsuccessful, ***please contact the examiner's supervisor, Corrine McDermott, at (571) 272-4754.*** The fax phone

number for the organization where this application or proceeding is assigned is 571-273-8300.

If there are any inquiries that are not being addressed by first contacting the Examiner or the Supervisor, you may send an email inquiry to

TC3700_Workgroup_D_Inquiries@uspto.gov.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/G. A./
Examiner, Art Unit 3773

/CORRINE M McDERMOTT/
Supervisory Patent Examiner, Art Unit 3773